

Putting Policy in Its Place: The Challenge for Research on Internet Policy and Regulation*

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Abstract: The major narrative of the Internet over the last decade has been focused on technical advances and the public and commercial opportunities they present. Over the next decade, the narrative will shift to policy and regulation. This essay provides a brief outline of the likely shift, the factors driving it, and the implications it will have both for the future of the Internet and for Internet research.

INTRODUCTION

Contemporary policymakers confront a wide array of key substantive policy issues, from net neutrality in the United States to global Internet governance internationally. This essay, however, steps back from focusing on particular policy issues to discuss the larger context and major challenges facing research on media, information, and Internet policy and governance. Most generally, my questions revolve around the future of research on the Internet, which will need to focus far more than it has in the past decade on media, information and Internet policy and regulation issues, and how centers and faculty can best advance the role of research in this area. The key challenge is how to put policy research in its rightful place. I am not suggesting that it should be put “back” in place, as I am not entirely certain that policy research has ever been where it deserves to be in the fields of media, information, and communication studies.

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For example, since the first years of the twenty-first century, there have been countless timelines describing histories of the Internet.¹ Whether you begin from Computer Inquiry II or from the dotcom bubble of 2000, histories of the Internet have been primarily about technological innovations—such as TCP/IP (Transmission Control Protocol/Internet Protocol), the web, search, video, social media, and the Internet of Things (IoT)—and about the companies and services that have grown around them and transformed what we know as the Internet. If you look at any timeline of the Internet's development, you will see a series of technical milestones. They track the astonishing pace of technical innovations that have reconfigured how people access information, people, services, and technology itself in ways that change the outcomes of those activities, as well as the way we do things.²

During the first decade of the century, however, few timelines have featured major initiatives in policy and regulation around the Internet and related media and information technologies, beyond general support for not regulating the Internet in many nations. Law and policy in a number of nations, such as the United Kingdom and the United States, basically defined the Internet as outside of the standard areas of regulation for the post, broadcasting, telecommunications, and mobile communications. Additionally, in line with this boundary, telecommunications policy research focused on post, telecommunications, cable, and broadcasting, and also on the issues surrounding their use, such as universal service and competition.³

A valuable body of policy literature did emerge around the Internet and digital media, but focused on five broad themes (Table 1).⁴ First, a number of studies dealt with initiatives aimed at ensuring access to the Internet, including work on digital divides. A second tended to describe and critically assess initiatives aimed at controlling Internet content, such as in the areas of content filtering and copyright. A third set of studies emerged around social and political

¹ Thomas Haigh et al., *Histories of the Internet: Introducing a Special Issue of Information & Culture*, 50 INFORMATION & CULTURE 143 (2015).

² WILLIAM H. DUTTON, SOCIETY ON THE LINE (1999).

³ Phillip Napoli's popular communication policy text illustrates this focus at the turn of the century. See PHILIP M. NAPOLI, FOUNDATIONS OF COMMUNICATION POLICY: PRINCIPLES AND PROCESS IN THE REGULATION OF ELECTRONIC MEDIA 11-28 (2001).

⁵ See ACCESS CONTROLLED: THE SHAPING OF POWER, RIGHTS, AND RULE IN CYBERSPACE (Ronald Deibert et al. eds., 2010).

movements to block regulatory initiatives, such as blocking passage of the U.S. Stop Online Privacy Act. Another more emergent set of studies focused on developing the case for Internet regulations, such as in the area of child protection, protecting network neutrality,⁵ and defining privacy online, such as developing the case of a right to be forgotten.⁶ Finally, there has been a continuing stream of work on broad issues of Internet governance seeking to define mechanisms for governing the Internet across the globe.⁷

Table 1. Themes of Early Internet Policy Research

Themes	Illustrative Issues
Access	Digital Divides, Inequalities Skills, Universal Access to Broadband
Controlling Content	Copyright, Internet Filtering
Politics of the Net	Movements to block regulations, such as SOPA in the U.S., C30 in Canada
Internet Regulation	Child Protection, Network Neutrality, Online Privacy, Right to be Forgotten
Internet Governance	Institutions and processes for global and local governance

By 2013, the landscape had already begun to change. Edward Snowden’s revelations joined growing concerns over big data, social media, and the Internet of Things (IoT) to dramatically raise the specter of developing more regulation around the Internet and related media. Certainly, by 2015, there was a rise of regulatory and policy initiatives focused on the Internet across numerous nations. This is most evident in some of the key policy developments in the United States, where ensuring non-regulation of the Internet was, perhaps, most pronounced until 2015.

⁵ Tim Wu, *Network Neutrality, Broadband Discrimination*, 2 J. TELECOMMUNICATIONS & HIGH TECH. L. 141 (2003).

⁶ Viktor Mayer-Schönberger, *DELETE: THE VIRTUE OF FORGETTING IN THE DIGITAL AGE* (2009); William H. Dutton, *Programming to Forget. A Review of Delete: The Virtue of Forgetting in the Digital Age by Viktor Mayer-Schönberger*, 327 SCIENCE 1456 (2010).

⁷ See generally MILTON L. MUELLER, *RULING THE ROOT: INTERNET GOVERNANCE AND THE TAMING OF CYBERSPACE* (2002); MILTON L. MUELLER, *NETWORK AND STATES: THE GLOBAL POLITICS OF INTERNET GOVERNANCE* (2010); LAURA DENARDIS, *THE GLOBAL WAR FOR INTERNET GOVERNANCE* (2014).

In early 2015, the Federal Communications Commission (FCC) issued landmark decisions on network neutrality and more, including municipal broadband. Streaming “over the top” video services were a burgeoning development at this time, and the FCC initiated a proceeding in late 2014 exploring how to regulate these services.⁸

The FCC, however, was only one of a number of players beginning to focus more on Internet policy and regulation. For example, President Barack Obama pushed for strong network neutrality regulation before the FCC took initiative in this area.⁹ Likewise, the Federal Trade Commission (FTC) became involved in a tussle of sorts with the FCC over who was responsible for network neutrality because the FTC focuses on antitrust, which network neutrality seeks to support.¹⁰ The FTC also saw itself responsible for privacy online, and it, therefore, became involved in another tussle with the FCC over who should lead in this area.¹¹ The Obama Administration began discussion of legislation, initially entitled the Consumer Privacy Bill of Rights Act, to give users more control over personal data.¹² The New York Times criticized it as a “weak” privacy proposal, wanting to see even stronger legislation. This was so, even though other legislation also sought to limit how companies could use personal data, including the Fair Credit Reporting Act and the Video Privacy Protection Act.¹³

These are just some of the agencies entering the Internet regulation arena. For example, even the Food and Drug Administration (FDA) started limiting mobile medical applications that provide information to patients, potentially crossing a First

⁹ *Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services*, FEDERAL COMMUNICATIONS COMMISSION, available at <https://www.fcc.gov/document/commission-adopts-mvpd-definition-nprm>.

¹⁰ Barack Obama, *President Obama Urges FCC to Implement Stronger Net Neutrality Rules*, THE WHITE HOUSE BLOG (Nov. 10, 2014), <https://www.whitehouse.gov/blog/2014/11/10/president-obama-urges-fcc-implement-stronger-net-neutrality-rules>.

¹¹ Kathryn Bachman, *FCC vs. FTC—a New Privacy Turf War*, BENTON FOUNDATION BLOG (Mar. 30, 2015), <https://www.benton.org/headlines/fcc-vs-ftc-new-privacy-turf-war>.

¹² *Id.*

¹³ *Administration Discussion Draft: Consumer Privacy Bill of Rights Act of 2015*, THE WHITE HOUSE, available at <https://www.whitehouse.gov/sites/default/files/omb/legislative/letters/cpbr-act-of-2015-discussion-draft.pdf>.

¹⁴ Editorial, *The President’s Weak Privacy Proposal*, N.Y. TIMES, Mar. 6, 2015, at A28.

Amendment line.¹⁴ It was not just the regulatory agencies and inter-agency politics in this arena, but, as illustrated by President Obama's efforts on behalf of privacy and network neutrality, politicians were also moving into this area in the United States and abroad, such as with Congress seriously discussing network neutrality legislation.¹⁵

Whatever the merits of any of these policy initiatives, together they signal a shift towards a more proactive role of a national government, guiding the Internet and related Information and Communication Technologies (ICTs) from social media to the IoT. Of course, the United States is not alone. In the area of net neutrality, the Netherlands has adopted regulations of its own, and, more generally, many other nations are establishing national policy initiatives to govern the Internet and related ICTs.¹⁶

Moreover, this is not simply a movement at the national level. There is a regional and global focus on the Internet by policymakers around the world. Regionally, the European Union provides a leading example with the Commission's work on network neutrality, promoting a European-style, two-speed Internet that takes almost a completely different approach to network neutrality than the U.S. with its opposition to "fast lanes."¹⁷ Globally, national regulatory initiatives, such as in Asia and the Global South, are being accompanied by growing support for a greater role of states in global Internet governance,¹⁸ such as in promoting multi-lateral approaches, rather than more multi-stakeholder approaches to governance that had found favor in such arenas as the Internet Governance Forum (IGF) and the Internet Corporation for Assigned Names and Numbers

²⁵ Adam Candeub, *Digital Medicine, the FDA, and the First Amendment* (Mich. St. U. Legal Studies Research Paper No. 12-08).

¹⁵ For example, Congresswoman Blackburn introduced a bill in the 114th Congress, 1st Session, "to prohibit the Federal Communications Commission from reclassifying broadband Internet access service as a telecommunications service and from imposing certain regulations on providers of such service." See H.R. 1212, 114th Cong., 1st Sess. (2015), available at <https://www.congress.gov/bill/114th-congress/house-bill/1212/text>.

¹⁶ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee, and the Committee of the Regions: The open internet and net neutrality in Europe, COM (2011) 0222 final (Apr. 19, 2011).

¹⁷ Daniel Thomas et al., *Proposals on European Net Neutrality Open 'Two-Speed' Internet*, FINANCIAL TIMES, Mar. 3, 2015, <http://www.ft.com/intl/cms/s/0/5688747c-c192-11e4-bd24-00144feab7de.html#axzz3VJRCnITW>.

¹⁸ MUELLER, NETWORKS AND STATES, *supra* note 7.

(ICANN). These moves toward multi-lateral governance approaches aim to put states in a more central role in global Internet governance processes, such as by supporting a greater role of the International Telecommunication Union (ITU)—reflecting the states' push for more national policy and regulation of the Internet.¹⁹

At the most general level, governments and their regional and global organizations are trying very hard to better control the Internet in its broadest sense. To borrow former President Bill Clinton's metaphor, if governments are not trying to "nail J-ELLO to the wall,"²¹ it appears that they are seeking more and more to put the J-ELLO in some more well-defined molds, often those that were used for older media.

Of course, some argue that governmental policy and regulation is increasingly irrelevant or marginal to the future of the Internet, as it is technological innovation driving its global diffusion and widespread application. Others argue that government policy has always been a factor shaping the Internet. As my colleague Steve Wildman put it over a cup of tea, policy in communications is analogous to gravity in the physical world: it provides the context for day-to-day practice, business plans, and designs.

For example, the First Amendment is policy, albeit one that has helped enable the Internet to be what Ithiel de Sola Pool might have called a "technology of freedom."²¹ Likewise, the FCC's Computer Inquiry II and many subsequent decisions have created the context in which the Internet, as we know it, has developed and flourished in the United States and around the world.

Also, since Computer Inquiry II, public policy and regulation essentially sought to foster the growth of enhanced services that might employ common carrier transmission facilities to provide computer-based applications. This seemed to be an attempt not only to resolve definitional issues over telecommunications versus computer services, which remains an issue today, but also to foster innovation in enhanced services, as part of what I would call a "technology-led

¹⁹ William H. Dutton, *Multistakeholder Governance?* (Mich. St. U. Quello Ctr., Working Paper 2015).

²⁰ Bill Clinton, Address at The Johns Hopkins University (Mar. 8, 2000), *available at* <http://www.techlawjournal.com/trade/20000309.htm>.

²¹ See ITHIEL DE SOLA POOL, *TECHNOLOGIES OF FREEDOM* (1983).

industrial policy.”²² This policy has been one of the most remarkable communication policy achievements of our time.

Yet, recent moves are more clearly introducing additional controls and restrictions on the providers and users of the Internet and associated telecommunication services. The days of arguing that the Internet cannot be controlled, restricted, or regulated seem to be fading into a distant memory, even if their proponents view them as efforts to protect the Internet as we know it.

I. THE SHIFT FROM TECHNOLOGY TO POLICY

Put in the most general and dramatic terms: I believe the narrative of the last decade of the Internet, if not the last several decades, has mainly been about technical innovation. Over the next decade, it will be about policy and regulation. Some have referred to initiatives like network neutrality as a sign of “regulatory creep,” but it might even be a regulatory surge that is underway.²³

This shift from technological innovation to policy and regulation began to emerge over the first decade of the century, but became more clearly evident starting in 2014. Since 2010, I have been arguing that the narrative describing the coming decades will be mainly about policy and governance, and much less about technical innovation. I not only believe this shift is happening, but that it is one of the most significant developments that will shape the future of the Internet in the coming years, and also the future of the field of policy research in media, information, and Internet studies.

All of this begs several questions, which I will address through the remainder of this article. Why? What are the risks and opportunities? What should policy researchers do about it? What can be done?

A. *WHY?*

There are four major reasons why politicians and regulators are moving more decisively into this space in order to control the Internet: the significance of the Internet, the decline of older media

²² Herbert Kubichek & William H. Dutton, *The Social Shaping of Information Superhighways: An Introduction*, in THE SOCIAL SHAPING OF INFORMATION SUPERHIGHWAYS: EUROPEAN AND AMERICAN ROADS TO THE INFORMATION SOCIETY 9-44 (Herbert Kubicek et al. eds., 1997).

²³ BOB ZELNICK & EVA ZELNICK, THE ILLUSION OF NET NEUTRALITY: POLITICAL ALARMISM, REGULATORY CREEP AND THE REAL THREAT TO INTERNET FREEDOM (2013).

and information technologies, moral panics over new media, and growing trust in regulatory responses.

1. *Significance of the Internet*

The most important, but maybe the most seemingly banal or obvious, reason is the sheer significance of the Internet to every country and every person on the planet. You may take this observation for granted, but it is only recently that the Internet has been viewed as increasingly important and even essential. It is amazing how quick the public forgets the marginal status of the Internet and related new media over the decades.

I recall joining the Annenberg School for Communication at the University of Southern California, which had a focus on new media as early as 1974. Even when I joined the School in 1980, a focus on new media was viewed widely across the communications field as a folly. Luckily for me, it was prescient, not foolish. Later, in 2002, when I became the founding Director of the Oxford Internet Institute (OII), I remember colleagues asking me: What will you do in a few years, after the Internet collapses in the wake of the dotcom crash? I might as well have been director of the CB Radio Institute. Of course, they were wrong. The Internet has become ever more important as everyone and everything is increasingly networked and, by all appearances, they will continue to be.

Anecdotes aside, at the OII, I helped launch and sustain the Oxford Internet Surveys (OxIS), which enabled me to follow the use of the Internet from 2003 through 2013 through what remains the widest ranging and highest quality national data available about who uses and does not use the Internet and with what consequences.

We asked users and non-users about the significance of the Internet. Even in 2003, only a very small proportion of Internet users thought the Internet was very significant, much less essential.²⁴ In every survey since 2003, a growing proportion of Internet users in Britain began to believe that the Internet was not just very significant, but actually *essential* to their information needs and to their entertainment.²⁵ In 2013, for example, among what I have called “next

²⁴ William H. Dutton et al., *The Internet in Britain*, OXFORD INTERNET SURVEY 2005 REPORT, available at www.oii.ox.ac.uk/research/oxis/oxis2005_report.pdf.

²⁵ William H. Dutton & Grant Blank, *Cultures of the Internet: The Internet in Britain*, OXFORD INTERNET SURVEY 2013 REPORT, available at <http://oxis.oii.ox.ac.uk/wp-content/uploads/sites/43/2014/11/OxIS-2013.pdf>.

generation users” (those who have multiple devices, some of which are mobile or portable), forty-one percent said it was “essential” for their information needs.²⁶ As everything will become even more networked in the years to come, this perception will continue, even if, as some argue, the Internet begins to be taken for granted as a part of everyday life, like water or electricity—also essential.

The significance of the Internet has not escaped the attention of politicians and regulators. To many, the Internet has become simply too important to be ignored. They can no longer take a *laissez-faire* approach and entrust an essential infrastructure of society to others.

2. *The Decline of Traditional Media and Telecommunications*

In parallel with the rising significance of the Internet, there has been a beginning of the decline, if not the end, of some of the more traditional media and communications technologies. It has become conventional wisdom that no medium is entirely replaced by new media. Radio has been called the “cockroach” of the communication sector, that is, it just keeps on going.²⁷ Also, I, along with others, have long discussed the complementarity of the Internet with traditional media. For example, for years, many people who have said they read the news online have also said they continued to read a newspaper.²⁸

There are signs, however, that use of the Internet and related ICTs, such as mobile and mobile Internet, are beginning to undermine more traditional channels of communication, such as “traditional” cable and satellite bundles, which are expected to be replaced by Internet services such as Netflix. Moves to bring newsfeeds more seamlessly into social media are another example of where complementarity could morph into greater levels of substitution of online news for the traditional newspaper.

²⁶ *Id.*

²⁷ See *The Cockroach of Mass Media: Why Radio Has Survived*, BLOOMBERG (May 13, 2014), <http://www.bloomberg.com/news/videos/b/bfe7b37c-fd99-401f-a72e-bdbee1657a78>.

²⁸ Nic Newman et al., *Social Media and the News: Implications for the Press and Society*, in *SOCIETY AND THE INTERNET* 135-48 (Mark Graham & William H. Dutton eds., 2014).

Dropping the fixed-line phone—what some have called “cord cutting”—may provide the best example of this decline.²⁹ This provides a good example, as it has been the basis for many national definitions of what should be a universal service. While I was in Britain, regulators began to see the proportion of households without a fixed-line phone start to decline. In the United States, as early as 2009, *The Economist* featured an article entitled *Unwired*, which noted: “Despite some of the flakiest mobile-network coverage in the developed world, one in four households has now gone mobile only.”³⁰

This decline in fixed-line services has been driven in part by price, as mobile phones have been a less expensive option for many households.³¹ Yet, given the support for basic services, it is not simply because households cannot afford it, but because younger people and many others have preferred to rely on their mobile cell phones.³² Similar trends in the United States, Britain, and the Netherlands, among other countries, are raising new questions about how to define universal service, with some suggesting it should be universal “access to broadband,” rather than universal access to any particular device.³³ Interestingly, while this might be a valuable redefinition of universal service, it also begins to move the Internet more clearly into a regulatory space, such as creating a demand for regulation of emergency services to be compatible over mobile as well as fixed-line phones.

It is not just the fixed-line phone. Think about the setbacks being faced by newspapers in many, albeit not all, countries, or current discussions that the future of content delivery may mean the end of

²⁹ Matthew Garrahan & Eric Platt, *US Media Shares Hit by ‘Cord-Cutting’ Fears*, FINANCIAL TIMES, Aug. 5, 2015, <http://www.ft.com/intl/cms/s/0/f363152c-3b90-11e5-8613-07d16aad2152.html#axzz3wRB8oLyn>.

³⁰ *Unwired*, THE ECONOMIST, Aug. 13, 2009, <http://www.economist.com/node/14213965>.

³¹ *Fixed-Line Decline Accelerates as the Number of Mobile Voice and Data Connections Grow*, OFCOM, <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr11/telecoms-networks/5.32>.

³² *Id.*

³³ The Quello Center’s Advisory Board raised this point in defining emerging issues surrounding communications policy. See William H. Dutton, *Quello Policy Issues: Comments on Emerging Issues*, THE JAMES AND MARY QUELLO CENTER (Jan. 15, 2015), <http://quello.msu.edu/quello-policy-issues-comments-on-emerging-issues/>.

television and premium cable TV as we have come to know them.³⁴ In these cases, traditional regulatory agencies, from the FCC to the International Telecommunications Union (ITU), are seeing the ground shift under their feet, and understandably so. It is not surprising that some wish not only to redefine universal service, but also to redefine their roles and move into areas that are providing functionally equivalent services along with new services.

3. *Moral Panics over the New Media: Calls to “Do Something!”*

A third major reason why policy is becoming more significant is an apprehension that the Internet and related ICTs are creating or exacerbating serious problems. It is arguable that many such fears are disproportionate reactions to novel technology. In this way, fears about social media and the Internet are becoming the “moral panics” of this decade. The Internet and social media have by and large replaced television as the object of moral panics, such as over their impact on children and everyone’s lives. Today, there is hardly a mention of television when concerns are raised about children’s attention spans and reading abilities. Of course, in the 1980s, when parents and teachers raised concerns about the attention spans of children, it was television that was the culprit, and computers in schools were the solution, given their “holding power.”³⁵

It is the case that the Internet, the web, and social media are viewed increasingly as contributing to a host of problems. Anyone attending a conference around the Internet and new media that is broader than the Internet research community will hear a litany of concerns around such issues as child protection, Internet addiction, social isolation, romance scams, hate speech, bullying, sexting, cybercrime, and terrorism, including the recruitment of terrorists and self-radicalization through online videos and related material on the Internet. There is a flow of journalistic treatments of how adept the Islamic State is on Twitter.³⁶ Gone are the days when the Internet

³⁴ Lee W. McKnight, *Over the Virtual Top: Digital Service Value Chain Disintermediation Implications for Hybrid Heterogeneous Network Regulation*, SOCIAL SCIENCE RESEARCH NETWORK (2014), available at <http://ssrn.com/abstract=2495901> (from the 42nd TPRC Research Conference at George Mason University School of Law)

³⁵ SEYMOUR A. PAPERT, *MINDSTORMS: CHILDREN, COMPUTERS, AND POWERFUL IDEAS* (1980).

³⁶ Rick Gladstone and Vindu Goel, *ISIS Is Adept on Twitter, Study Finds*, N.Y. TIMES, Mar. 5, 2015, at A12.

community worried mainly about such things as flaming, hate mail, and copyright infringement.

Are some of these concerns moral panics? Yes. Are they taken out of proportion? In many cases, I am sure. Still, politicians and public officials are faced with these concerns and do not know how to respond. They feel the need to “do something” about these problems. Literally, you can hear politicians telling communication regulators to: “Do something.”

4. *Public Trust in Regulation*

Finally, one of the most interesting trends that emerged from our OxIS surveys of people in the U.K. was a growing belief that the Internet required “somewhat more” or “more” regulation. Despite the fact that only about twenty percent of respondents said they trusted the government; and despite that most respondents said they trusted the providers of Internet services more than they trusted the government; more and more people responded that the Internet should be regulated more than it has been in the past. In 2013, our survey of individuals in Britain found that forty-four percent of Internet users thought the government should regulate the Internet “more” or “far more.” Even worse, are the attitudes of retired individuals. Among those who are retired, seventy-one percent believe the government should regulate the Internet “more” or “far more.”³⁷

However, this is not simply a generational issue. Our analysis of the attitudes and beliefs of Internet users found that just over one in ten Internet users felt the Internet was a pleasurable escape, an efficient tool, or a social facilitator.³⁸ The majority of users were very moderate in their views on the Internet, if not somewhat uncomfortable online. We classified fourteen percent as “adigital,” meaning that they tended to see the Internet as out of their control and a problem-generator.³⁹ In short, many in the public, even among users, are not enthusiastic about all aspects of the Internet and are, therefore, open to calls for regulatory intervention.

³⁷ Dutton & Blank, *Cultures of the Internet*, *supra* note 25, at 53.

³⁸ William H. Dutton & Grant Blank, *Cultures on the Internet*, INTERMEDIA, Winter 2014/15, at 55-57.

³⁹ *Id.* at 57.

Network neutrality might be a case in point, where much of the demand for FCC regulation seemed to come from the Internet community, rather than the industry. Approximately four million submissions arrived at the FCC in response to their network neutrality consultation.⁴⁰ They were a mixed bag, ranging from informed and valuable to the frivolous and unhelpful, but the sheer number of submissions alone made the consultation more influential than many others in the eyes of the Commissioners. Not surprisingly, in an area once reigned by engineering, legal, and economic analysis, some worried that a new “populism” would be “undermining the public good.”⁴¹ Of course, the Internet is enabling more public engagement and participation in all areas of policy and regulation, but this is a new element in a technocratic policy domain.

This is one huge and consequential result stemming in part from the moral panics over the new media. An increasing proportion of the public believes more regulation is needed, and politicians are being told to do something. Moreover, as you can see in the rise of regulatory initiatives, politicians are, indeed, trying to do something. Unfortunately, there is no easy solution, or even a symbolic response, that might satisfy the public.

Remember the V-Chip? Many calls for the government to protect children from violent or sexually explicit content on television led to similar demands for regulators to do something. Then, in 1996, the Clinton Administration championed the Violence-Chip, or V-Chip, that could be installed in television sets to enable parents to block objectionable programming.⁴² Maybe this was a symbolic response, rather than a real solution. Notwithstanding whether parents could set this up or whether children could hack their V-Chip, this initiative went very far in addressing public anxieties and silencing public demand, at some level.

⁴⁰ Estimate by the FCC’s CIO, David Bray. See David Bray, *The importance of Public Service #Change Agents in Exponential Times*, VIMEO (Sept. 21, 2015), available at <https://vimeo.com/140513826> (from Quello Center).

⁴¹ Research underway at the Quello Center points more to a “tech populism” than to a grassroots movement among users. See *Network Neutrality Impact Study*, JAMES AND MARY QUELLO CENTER, <http://quello.msu.edu/research/network-neutrality-impact-study/> (last visited Jan. 6, 2016); Robert Atkinson et al., *How Tech Populism is Undermining Innovation*, INFORMATION TECHNOLOGY & INNOVATION FOUNDATION (Apr. 1, 2015), <https://itif.org/publications/2015/04/01/how-tech-populism-undermining-innovation>.

⁴² The passage of a U.S. telecommunications reform bill in 1996 mandated that a V-Chip be installed in every new television set sold in the United States by 1999. DUTTON, SOCIETY ON THE LINE, *supra* note 2, at 67.

Over the last decade, I have actually followed the spirit of the V-Chip, arguing that policy and practice should focus on moving any content filtering as close as possible to the household. The development of more intelligent home hubs, such as to support greater cybersecurity in the household, could also enable households to set content controls in truly meaningful ways. Already, many households with children have filters installed on their family computer—over forty percent in the U.K., for example.⁴³ In the interim, until more sophisticated intelligence reaches the household, Internet intermediaries are increasingly providing content-filtering services.

Yet, even in this effort to empower households, policymakers have nudged Internet intermediaries to set “filters on” as the default, rather than something they can opt into—forcing households to request access to unfiltered content. So-called “default filtering” is viewed as a more effective means to reduce children’s access to inappropriate programming. Instead of opting into content filtering, households increasingly have to opt out.⁴⁴ This is one factor that contributed to Britain being listed as one of the “Enemies of the Internet” by Reporters Without Borders in 2014, for having such a high level of Internet censorship and surveillance.⁴⁵ Of course, content filters do not address many rising concerns, one being radicalization. Due to there being no technological fix in sight for many of these moral panics, governments and regulators will do something, even if they do not know exactly what to do yet. What are the risks? What are the opportunities?

a. *Risks?*

There is no quick technical fix, or obvious symbolic response, to clarify calls to “do something” about the host of problems associated with the Internet. More importantly, and more generally, we lack

⁴³ *Ofcom Report on Internet Safety Measures: Strategies of Parental Protection for Children Online*, OFCOM (Jan. 15, 2014), <http://stakeholders.ofcom.org.uk/binaries/internet/internet-safety-measures.pdf>.

⁴⁴ Tim Cushing, *UK’s Web Filters Blocking Nearly One-Fifth of the World’s Most Popular Websites*, TECHDIRT (July 3, 2014), <https://www.techdirt.com/articles/20140702/22000227768/uks-web-filters-blocking-nearly-one-fifth-worlds-most-popular-websites.shtml>.

⁴⁵ *Internet Enemies*, REPORTERS WITHOUT BORDERS (Mar. 12, 2009), http://www.rsf.org/IMG/pdf/Internet_enemies_2009_2_.pdf.

good, appropriate models or frameworks for regulating the Internet. Ithiel de Sola Pool understood this, even before we talked about the Internet *per se*.⁴⁶ In thinking about how to regulate computer-mediated communication, he reviewed the problems and the lack of fit between the new media and all of the existing regulatory models for old media—the post, the news, telephony, broadcasting, and cable communication.

Over more than a decade, in the context set by the First Amendment and Computer Inquiry II in the United States, the Internet model was essentially not regulated—letting the providers of enhanced services and the Internet and, increasingly, the public and end users, shape innovation and the use of this new technology. In this context, you could, quite literally, hear regulators talking about what to do about television as more and more households could watch television on their computers and use computers on their televisions. Should the U.K., for example, keep existing broadcast regulations, such as the watershed hours, to prevent violent or explicit sex off the air until after 9 p.m.? (A few politicians famously asked: If there is a watershed on the TV, then why is there not one for the Internet?⁴⁷) Or should they deregulate broadcasting, making it more like the Internet?

The Internet's very success in uptake and support in the United States and around the world reinforced this light to no regulatory approach, where governmental regulation was perceived to be a limitation, if not a danger, threatening to put a brake on innovation and raise the costs of services, thereby diminishing their use and impact.⁴⁸ The lack of innovation in telecommunications, along with its high costs, led to global efforts to liberalize telecommunications regulation beginning in the early 1980s, which contributed to this negative perception of the risks of regulatory interventions.

Nevertheless, given all the reasons outlined above, it looks like moving towards less broadcasting regulation is not going to be the major direction of travel in the coming years. So, the problem

⁴⁶ See POOL, *supra* note 21.

⁴⁷ Mic Wright, *A 'Watershed' for the Internet? People this Stupid Should Not be Making Our Laws*, TELEGRAPH, July 25, 2013, <http://blogs.telegraph.co.uk/technology/micwright/100009434/a-watershed-for-the-internet-people-this-stupid-should-not-be-making-our-laws/>.

⁴⁸ Walter S. Baer, *Telecommunications Infrastructure Competition: The Costs of Delay*, in INFORMATION AND COMMUNICATION TECHNOLOGIES: VISIONS AND REALITIES, 353-70 (William H. Dutton ed., 1996).

remains: We have no truly appropriate regulatory model to impose on the Internet. The general problem, however, is that without a built purpose and appropriate model for regulating the Internet, politicians and regulators will fall back on old and not entirely appropriate models.

I should emphasize a point I made earlier: Regulation is not inherently good or bad per se. The First Amendment is regulation. Early non-regulation of the value-added services was an IT-led industrial policy in many respects. The major regulatory risk is that inappropriate regulation could be imposed on the most important innovations of our time.

5. *Multiple Regulatory Models for Multiple Layers of the Internet*

Obviously, FCC Chairman Tom Wheeler's support for network neutrality regulation is a case in point—particularly in light of the controversy following the three to two FCC vote for network neutrality⁴⁹ and the praise it has received from many of my colleagues. Is this a case of applying an old model to regulate the Internet? To Chairman Wheeler, and many other proponents of network neutrality, this regulation is sort of a Freedom of the Internet policy, but let us look at the details and the consequences. First, should the Internet fall under Title II and be subject to regulation as a common carrier? Although this symposium has been instructive on various aspects of this question, I see a possible risk of this approach that I have not heard discussed.

In the United States, there is a problem of insufficient alternatives and competition in access to the household. In many nations with more competition among last-mile broadband providers, there is less of a concern or perceived need for regulation to prevent a carrier from blocking or throttling (slowing) services. In Britain, for example, when the United States began discussing network neutrality in 2004,⁵⁰ U.K. regulators had a difficult time imagining that network neutrality had any relevance in the British context, where most households had

⁴⁹ *FCC Adopts Strong, Sustainable Rules to Protect the Open Internet*, FEDERAL COMMUNICATIONS COMMISSION, available at <https://www.fcc.gov/document/fcc-adopts-strong-sustainable-rules-protect-open-internet>.

⁵⁰ Tim Wu is credited with coining the term “network neutrality” in 2003. See Emil Guillermo, *Father of Net Neutrality, Tim Wu, Hails FCC Decision*, NBC NEWS, Feb. 26, 2015, <http://www.nbcnews.com/news/asian-america/father-net-neutrality-tim-wu-hails-fcc-decision-n313656>.

choices among broadband providers.⁵¹ In the United States, however, there is a relative lack of competition in last-mile provision on a given platform, such as DSL or cable, making the case for network neutrality regulation stronger. The model, however, applies principally to carriage into the home—the last mile—and, therefore, illustrates the dilemma of the blind regulators and the elephant, grappling with one piece or one layer of the ensemble of networks and services that define the Internet. You can see where this step might well take regulation.

It is not far fetched to see every layer of the Internet leading politicians and regulators to bring in other models that appear suitable to different parts of the elephant in the room—the Internet. We will not only have multiple technological layers of the Internet, but also multiple regulatory layers imposed by multiple agencies and other authorities to put this J-ELLO into an assortment of old, outdated, and, potentially, inappropriate molds.

Are there other molds? Yes, indeed. This is clearly the case internationally, but it is arguably true as well for the United States, despite its First Amendment traditions.

In many nations, Internet intermediaries are increasingly being treated as if they were a newspaper. They are not only starting to edit content, but are being *told* to edit content, such as Google being instructed by the EU and German courts about the right to be forgotten.⁶³ While newspapers in the United States are not subject to content restrictions, they are subject to libel and claims over the unauthorized disclosure of classified information. If ISPs begin taking on an editing role and become regulated as if they were a newspaper, this could have a chilling effect on their activities.

At other times, intermediaries are being regulated as if they were broadcasters and are instructed to be selective in the content they offer, such as blocking certain material. Rules established for broadcasters are also being applied to bloggers. For example, people have been arrested in Britain and elsewhere for inappropriate, ill-judged tweets, though, arguably, not tweets that merit being sent to jail.⁵³ In Britain, this is largely due to the application of regulation

⁵¹ *Broadband Competition Reaches New Milestone*, OFCOM (Feb. 7, 2012), <http://consumers.ofcom.org.uk/news/broadband-competition-reaches-new-milestone-2/>.

⁵² *Europe: 1, Google: 0: EU Court Ruling a Victory for Privacy*, SPIEGEL ONLINE, May 20, 2014, <http://www.spiegel.de/international/business/court-imposes-right-to-be-forgotten-on-google-search-results-a-970419.html>.

⁵³ See, e.g., Bianca Bosker, *Arrested Over Twitter: 8 Tweets That Got People BUSTED*, HUFFINGTON POST (Aug. 25, 2010, 10:19 AM), http://www.huffingtonpost.com/2010/08/25/arrested-over-twitter-8-t_n_693866.html.

designed for broadcasting—electronic communication—to social media, such as Section 127 of the U.K.’s Communications Act.⁵⁴ As a consequence, a detailed set of guidelines was developed to consider in prosecuting cases brought to law enforcement around the use of social media.⁵⁵ With or without guidelines, this is, arguably, likely to have a chilling effect on the use of social media, as users will self-regulate to avoid problems with law enforcement and the courts.

Even more unbelievable is the case of a Turkish journalist jailed for “liking” a comment on a Facebook post that insulted the nation’s president.⁵⁶ Journalists are being subjected to policy that was designed for broadcasting to millions, not for blogging 140 characters to your “followers” or “liking” a comment.

This is particularly troubling because politicians with a weak understanding of the Internet are driving many of the initiatives. Too many politicians behind such initiatives do not have experience with using social media or, for that matter, even e-mail. The Internet is an “experience technology,” and it is difficult to understand the Internet without such experience.⁵⁷

I was recently at a UNESCO conference in which speaker after speaker noted that anything considered illegal offline should be illegal online, that is, laws that apply offline should apply online. I noted to that audience, and again today, that this idea that the Internet is the Wild West, without laws and without sheriffs, is misleading. Fraud is illegal online, and so on—things that are illegal offline are, indeed, illegal online.

One of the problems that lay behind the Wild West image of the Internet is not a lack of law or regulation, but the perception that it is unregulated and the difficulty of enforcement on a new technology that travels across jurisdictions and does so very, very fast. Just as the interstate bank robbers, Bonnie and Clyde, helped create the U.S.

⁵⁴ Lilian Edwards, *Section 127 of the Communications Act 2003: Threat or Menace?*, SCL JOURNAL, Sept. 10, 2012, <http://www.scl.org/site.aspx?i=ed28102>.

⁵⁵ *Guidelines on Prosecuting Cases Involving Communications Sent Via Social Media*, THE CROWN PROSECUTION SERVICE, http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/ (last visited July 12, 2015).

⁵⁶ *Journalist Receives Jail Sentence for ‘Liking Erdoğan Insult’*, HÜRRİYET DAILY NEWS (Apr. 4, 2015), <http://www.hurriyetdailynews.com/journalist-receives-jail-sentence-for-liking-erdogan-insult.aspx?pageID=238&nID=80587&NewsCatID=339>.

⁵⁷ William H. Dutton, *Trust in the Internet as an Experience Technology*, 9 INFORMATION, COMMUNICATION & SOCIETY 433 (2006).

Federal Bureau of Investigation (FBI), the Internet is likely to create new law enforcement mechanisms to overcome the issues of international coordination and cooperation at unbelievably fast speeds. Still, that is a law enforcement issue, not an issue of a lack of law or policy per se.

That said, the Wild West image is certainly fueling a range of regulatory initiatives, many of which are, arguably, inappropriate, and together which might well undermine the vitality of the Internet. Regulation designed for the press, because it is an edited source, is not necessarily right for a blogger. Something perfectly reasonable for a broadcaster, given the pervasiveness of broadcasting, is not necessarily appropriate for a Twitter user. If we want to call the Internet a common carrier, for example, then it might well be inappropriate to regulate content—but nations are increasingly doing so.

Is there a case for American exceptionalism in this area, given the centrality of the First Amendment? While it is true that there are few, if any, examples of Twitter arrests to-date in the United States,⁵⁸ the use of multiple regulatory models remains a significant issue in the American context. Going back to Ithiel de Sola's focus on this issue, it is clear that he saw this as an American problem, despite the First Amendment. His seminal book, *Technologies of Freedom*, devotes a chapter to each medium of communication commercialized before 1950—that is, print, common carriage, and broadcast—and also cable. Each of these chapters highlights the variation in the regulatory traditions shaping expression within each medium, despite the central role of the First Amendment in providing the foundational legal context for all of them. All the old electronic media developed different regulatory traditions under the First Amendment, each tradition exerting different levels of governmental and regulatory control over expression. As Pool puts it:

The problem is worldwide. What is true for the United States is true, *mutatis mutandis*, for all free nations. All have the same three systems. All are in their way deferential to private publishing but allow government control or ownership of carriers and broadcasters. And all are moving into the era of electronic communication. So they face the same prospect of either freeing up their electronic media or else finding

⁵⁸ See Bosker, *supra* note 52.

their major means of communication slipping back under political control.⁵⁹

The regulatory model that is chosen for the Internet will shape the application of the First Amendment in the United States and the level of political control worldwide. Applying different models to multiple layers and uses of the Internet and related social media is likely to exacerbate the difficulties of protecting expression. While the American debate over network neutrality raised the prospect of greater regulatory control over expression online,⁶⁰ the cut and thrust of efforts to support or oppose this initiative should not be disregarded. The application of different regulatory models all carry with them potential implications for governmental control of the electronic media, directly and indirectly, such as in the potential for ushering in more state, as well as federal, regulation of the last-mile of the Internet in the United States.⁶¹ Finally, global appropriation of regulatory models will increasingly impinge on the United States, such as in the case of European courts and information commissioners pushing for international rights to be forgotten.

b. *Opportunities?*

The factors giving rise to an increase in policy and regulatory attention on the Internet could also present opportunities to address the problems.

II. INTEREST IN INTERNET POLICY AND REGULATION

To begin with, this concern is creating a genuine renewal of interest in ideas concerning the appropriate set of policies and regulations for governing the Internet at all levels, from local and national arenas to the global. The period in which there was nominally “non-regulation” of the Internet had the effect of marginalizing, if not silencing, discussion of Internet regulatory models.

⁵⁹ See POOL, *supra* note 21, at 8.

⁶⁰ Ajit Pai & Lee Goodman, *Internet Freedom Works*, POLITICO MAGAZINE (Feb. 23, 2015), <http://www.politico.com/magazine/story/2015/02/fcc-internet-regulations-ajit-pai-115399#.Vdi6tumsd4o>.

⁶¹ Jonathan J. Nadler, *The FCC's Bright Lines*, INTERMEDIA, June 2015, at 20-24.

A. *New and Appropriate Regulatory Models and Policy*

Many participants in the policy process recognize the degree to which inappropriate models are being applied to the Internet. Many regulatory officials and experts realize, for example, that treating Internet intermediaries as if they are traditional broadcasters is problematic, at best. Nevertheless, they are in a position in which they must follow the decision of policymakers forced to “do something.” They are a natural and receptive audience for more appropriate models of Internet regulation, creating a welcomed setting for the academic community, civil society, and others to propose new and more appropriate regulatory models.

A parallel interest is developing a more rational and holistic approach to the Internet, such as through the rewrite or drafting of new communications law and policy. Britain may consider revision of the Communications Act of 2003, just as the United States may revisit the Telecommunications Act of 1996, which, itself, was a major revision of the Communications Act of 1934. Ideally, it will not take another sixty years to revisit the Telecommunications Act, even though many believe such a revision is optimistic if not idealistic during a time of major partisan divides.

B. *Refocus on Key Issues*

There is also the opportunity for the debates surrounding privacy, network neutrality, and related regulatory initiatives to generate more informed perspectives, which could potentially refocus attention on key issues not presently at the center of attention. A key example includes concern over the loss of anonymity in the digital world, a right that some nations have placed a high priority on, such as the United States through the U.S. Supreme Court in its decision in *Buckley v. American Constitutional Law Foundation, Inc.*, involving the circulation of petitions.⁶² The Supreme Court has also extended the right to anonymity as a protection of First Amendment freedoms of speech on the Internet in *Reno v. American Civil Liberties Union*.⁶³ Despite these rulings in the United States and globally, there is a growing realization that anonymity is becoming more difficult, if not impossible, to guarantee online.

⁶² *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182 (1999).

⁶³ *Reno v. Am. Civil Liberties Union*, 521 U.S. 844 (1997).

Competition is another key issue that seems to have been challenged by the new Internet context. Questions have been posed about how to judge the national concentration of ownership and media competition on a global Internet. Old indicators of media concentration are no longer sufficient. Due to network neutrality being, in part, a protection against limited competition, it may be better to deal directly with competition, rather than deal indirectly with it through rulings on neutrality.

III. CHALLENGES FOR POLICY RESEARCH: WHAT SHOULD BE DONE? BY WHOM?

The good news for policy researchers is that these issues should put policy research in the center of Internet developments over the coming years, if not decades. There are barriers, however, to researchers providing leadership in addressing Internet policy and governance.

It could be that the rise of policy and regulation will restore the vitality of several disciplines within the study of media, communication, and the Internet.⁷⁵ There could well be a competitive advantage for some fields, such as engineering, law, and economics, because their frameworks provide normative guidelines. Economists can point to an optimal policy. Legal scholars can address the case law behind recommendations for and against particular prescriptions. Engineers can point to techno-economic imperatives that dictate an optimal solution.

Yet, the dynamic of issues surrounding the Internet, such as the moral panics described above, will tend to limit the significance of any single academic discipline and foster more interdisciplinary research than in the earlier era of telecommunications policy research. Interdisciplinary research entails less of a focus on law and policy as an end in itself and more of a focus on problem solving, such as how to ensure quality news, network neutrality, or privacy of sensitive personal information. A problem focus immediately drives research in more multi- and inter-disciplinary directions.

Early telecommunications policy was dominated by a technocracy of sorts, a virtual invisible college of economists, lawyers, and engineers, including some represented in this symposium. Still, even this interdisciplinary mix is too limited for the problems confronting

⁶⁴ My colleague, Johannes Bauer, developed this point in a Quello Center workshop on policy at Michigan State University on December 4, 2014.

the Internet over security, freedom of expression, and privacy that are clearly engaging far more stakeholders and disciplinary perspectives across the social and physical sciences.

Nevertheless, computer scientists and engineers have remained dominant in discussions of the Internet arena, while social scientists and policy researchers, at least since the 1970s, have been sidelined; they have been on the margins of debate over the Internet, and this is true even in debates surrounding its societal implications. Social and policy researchers were often key to important debates about telecommunications, broadcasting, and cable, and will remain so, but they have been largely out of the room on key issues over the Internet and related digital ICTs. It is true that computer scientists and engineers need to be called to advise on policy remedies, but they need to be complemented by those in other disciplines, including researchers who can speak about social issues, such as moral panics.

Further, even when telecommunications policy research was strong in departments of communications and media, it was often separated as an adjunct or specialized field. Clearly, there is hardly a field of media, information, or Internet research today that does not have major implications and relevance for policy and regulation. Therefore, we need to make the study of policy and regulation more mainstream within academic departments and colleges—and not continue to treat this topic as a marginal specialization.

One consequence of these first two points is that academics focusing on communications policy research have a difficult time shaping their departments and respective journals. As universities across the world jump on the bandwagon of high-impact journals, it is ironic that many journals centered in the policy and regulatory field are not high on the media, information, and Internet lists of such journals because they are based on citations and other factors that are steps removed from any real impact on policy or practice. This competition for journal recognition has continued to undermine interdisciplinary policy research.

Moreover, the conflicts in communications policy and regulation run deep across industry and across partisan political divides. In the United States, industry divides are often deeper and more severe than partisan divides. Since the 1970s, and post-deregulation in the United States, few industries could stand up to the force of the Internet's diffusion and application across all sectors. The division between cable and telecommunications seemed to recede somewhat, but, increasingly, the division between the telecommunications and cable companies versus the Internet industry seems to have been lit up by

network neutrality—and the division is likely to grow as they are perceived to affect the very survival of key industries, such as cable.⁶⁵ Moreover, these industry splits have begun to align with partisan divisions, with network neutrality rules under Title II being viewed as an initiative of the Democratic Party versus the Republican Party, with a three to two vote in the FCC, as well as a Democratic Obama Administration versus a Republican Congress.⁶⁶

This was not the case with cable television in the United States, when cable was a bipartisan initiative.⁶⁷ In contrast, cable did create partisan divides in many European countries, such as in France and (West) Germany, where cable system development was often stalled as a consequence.⁶⁸

Likewise, the push for the Internet did not cut along partisan lines, as it was viewed as a market and industry-led industrial policy that was not problematic for years. The Internet was viewed initially as simply an interesting innovation before it became viewed over time as an increasingly essential infrastructure, with huge social and economic dividends. As the case suggests, however, as the Internet is perceived as more significant to society, politicians and regulators have become more engaged in Internet policy and regulatory issues, such as network neutrality, moving the Internet into a more politicized debate that is likely to extend into the coming years.

Moreover, academics are taking on interested roles, if not leading competing sides, as advocates in the debate over such issues as network neutrality, all the while opposing many other regulatory initiatives, such as mass surveillance or the criminalization of file sharing as a tool of copyright protection. As many advocates of network neutrality see themselves defending some version of the First

⁶⁵ Debate over the implications of the network neutrality ruling for investment in cable and broadband infrastructure, generally, has presented dramatically different views. *See, e.g.*, Trefis Team, *FCC Ruling on Net Neutrality Will Have Major Implications for the Internet Space*, FORBES, Feb. 26, 2015, <http://www.forbes.com/sites/greatspeculations/2015/02/26/fcc-ruling-on-net-neutrality-will-have-major-implications-for-the-internet-space/>.

⁶⁶ Earlier efforts to support network neutrality rules by the G.O.P. FCC chairs sought to do so while freeing DSL from basic telecommunications regulation, to be on par with market regulation of cable modems. These rules, which did not rely on Title II authority, were rebuffed by the D.C. Circuit Court.

⁶⁷ William H. Dutton et al., *A Comparative Analysis*, in *WIRED CITIES: SHAPING THE FUTURE OF COMMUNICATIONS* 456-86 (William H. Dutton et al. eds., 1986).

⁶⁸ *Id.*

Amendment for the Internet, this is understandable, but as academics move into the role of policy advocates they are less credible and trusted as disinterested policy researchers.

I should say that I often am an advocate for various policies. I have served on regulatory advisory committees and, in such roles, have taken positions on issues facing these committees. I have spoken on platforms for and against positions. For example, I have spoken out against identity cards in the U.K., before opposition became popular. It is possible and useful, however, to separate one's advocacy role from policy research. Academics in the policy and regulatory space need to be able to wear more than one hat.

In sum, I see policy researchers in the coming years facing four critical challenges:

1. *A Voice for Analytic Skepticism.* The first, and a continuing challenge, is being trusted as a source of what Steve Woolgar has termed "analytic skepticism."⁶⁹ It is the role of academics to open others' minds by challenging taken-for-granted assumptions. It is not their role to parrot the advocates of popular policy positions.
2. *Challenging Conventional Models and Creating New Models.* Second, and following from this position, we need to be the ones who challenge conventional models of regulation and their applicability to the Internet. Most importantly, we need to develop new models that will respond to concerns over what should be done to address the issues driving heavier reliance on Internet policy and regulation.
3. *Sources of Analytical Frameworks and Empirical Evidence.* Third, we can do what many others cannot by bringing analytical frameworks, such as economic models and systematic empirical research, to bear on issues of policy and practice.
4. *Building the Strength of the Policy Research Community.* The symposium conveys some sense of the strength and potential of the research community

⁶⁹ DUTTON, SOCIETY ON THE LINE, *supra* note 2, at 335-37.

in media, information, and Internet policy. Yet, I would guess that if we look historically, the policy research community has been diminished over the last several decades.

Consider the 1980s as a start. The AT&T divestiture settlement, as announced in 1982, fostered endless discussion and meetings in the United States and abroad on the meaning of “deregulation,” as many Europeans were confused by the degree that the settlement was actually ushering in more regulated competition.⁷⁰ I recall attending a conference in France where everyone was perplexed by the concept of deregulation because it seemed to fly in the face of what was being done with AT&T. I, along with others, had to explain that they should not take the term “deregulation” too seriously because it was politically, more than analytically, framed. Be that as it may, it spawned research, publications, and interest in telecommunications policy.

Innovation in two-way cable communication systems in the late 1970s and early 1980s was another development that fostered interest in communications policy. Ralph Lee Smith wrote about the *Wired Nation*, along with James Martin and others.⁷¹ This led to global discussion about national cable policies and work on comparative communications policy.

Also in the early 1980s, for example, Ambassador Walter Annenberg provided support for the Annenberg Washington Program in Communications Policy Studies.⁷² The program later folded and was put in the hands of Newton Minow at Northwestern University, leading to the publication of a few volumes of policy studies from 1989 to 1995, but closing in 1997.⁷³ It was then transformed to The Annenberg Public Policy Center of the University of Pennsylvania, which shifted away from communications policy to focus more on political campaigns and elections.⁷⁴

⁷⁰ PETER TEMIN, *THE FALL OF THE BELL SYSTEM* (1987).

⁷¹ Dutton et al., *supra* note 66.

⁷² *About the Annenberg Washington Program in Communications Policy Studies*, NORTHWESTERN UNIVERSITY, <https://wayback.archive-it.org/6321/20140428150227/http://www.annenberg.northwestern.edu/>.

⁷³ *Id.*

⁷⁴ *About*, ANNENBERG PUBLIC POLICY CENTER OF THE UNIVERSITY OF PENNSYLVANIA, <http://www.annenbergpublicpolicycenter.org/about/> (last visited Oct. 25, 2015).

A wide range of policy centers sprung up at universities across the United States in the 1980s and 1990s, prior to the phenomenal rise of the Internet, but they have lost their role or status since. The policy research field needs to build other various centers for interdisciplinary research on media, information, and Internet policy and research. In the short term, however, we need to collaborate more and network on key issues. This is the Internet age, and key new areas are far more strongly networked than is our field. One clear example is the field of Internet studies, which has developed a Network of Internet Research Centers that is growing rapidly and overlaps with many other issues facing the policy community.⁷⁵

Susan Crawford posted a useful blog on the battle for the future of the Internet, in which she argued that the new metaphor of the Internet being the “new TV” was way too limited and that we not only need better metaphors to guide policy and practice, but also what she called “serious work” on “the Internet policy gap-filling front.”⁷⁶ This is an observation echoed by other authorities in the field, including Elliot Maxwell.⁷⁷ My sense is that these critics see real challenges facing the future of Internet policy research, similar to those I have sketched here and they recognize that the success of this research will be critical to the vitality of the Internet in the coming years and decades.

POINTS OF SUMMARY AND DISCUSSION

In conclusion, it seems clear that the next decade will see policy and regulatory initiatives eclipse technological innovations as the key narrative describing the forces shaping the future of the Internet. Multi- and inter- disciplinary policy researchers need to step up to address the issues driving often inappropriate policy and regulation, by bringing key academic values and skills to bear in the area.

⁷⁵ See, e.g., NETWORK OF CENTERS, <http://networkofcenters.net/> (last visited Apr. 3, 2015).

⁷⁶ Susan Crawford, *The Future of the Internet Might Hinge on This Bet*, BACKCHANNEL, <https://medium.com/backchannel/the-future-of-the-internet-might-hinge-on-this-bet-cb6d328600c#.fe5fodfink>.

⁷⁷ Elliot Maxwell, chairman of e-Maxwell and Associates, argued in a piece by Samantha Madison that the Internet policy area needs better data because he has seen what he calls the “crapification of data, the self-interest of parties and crippling of independent analytic capabilities have in fact harmed our ability to make good policy.” Samantha Madison, *Defining Tech Populism: Tech Policy Debates Being Shaped by Angry, Populist Uprisings*, *ITIF Says*, 35 COMM’NS DAILY 63, 2 (April 2015).

Let me simply illustrate these points and note that I follow my own advice. The Quello Center has launched a study of the impacts of network neutrality.⁷⁸ Our research is designed to be analytically skeptical about all positions in debates over network neutrality regulation. It aims to challenge conventional wisdom on the implications of policy and regulation, and bring new facts and systematic empirical research to the debate. Ideally, this and similar studies will help bring policy research into the center of debate over the future of the Internet. That will help put policy in its rightful place.

⁷⁸ See *Network Neutrality Impact Study*, JAMES AND MARY QUELLO CENTER, <http://quello.msu.edu/research/network-neutrality-impact-study/> (last visited Jan. 6, 2016).